

HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:27603 OF 2007

Dated:28.12.2007

Between:

M/s. Kamineni Hospitals (P) Limited,
Rep., by its Finance Manager
B. Raghu Ram.

..Petitioner

And

1. The Assistant Commissioner (CT.II)
Saroornagar Division at Manoranjan Complex,
Hyderabad and others.

..Respondents.

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HONOURABLE MRS. JUSTICE T.MEENA KUMARI
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ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to declare the assessment order dated 30.10.2007 passed by the 1st respondent Tin No.28470261820 including the demand for penalty dated 27.11.2007 passed by the 1st respondent demanding the petitioner to pay an amount of Rs.16,37,976/- and Rs.4,09,494/- towards disputed tax due and penalty respectively, as arbitrary and illegal.

The main grievance of the petitioner is that aggrieved by the final assessment orders dated 30.10.2007, an appeal has been preferred before the 2nd respondent. Along with the said appeal, the petitioner filed a stay petition. But the 2nd respondent dismissed the stay petition. Hence, a revision has been preferred by the petitioner before the 3rd respondent and the same is pending consideration. While so, the respondents are demanding for immediate payment of the alleged disputed tax and penalty. Having aggrieved by the same, the present writ petition has been filed by the petitioner.

Heard the learned Counsel appearing for the petitioner and the learned Special Standing Counsel for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that against the final assessment order, an appeal is pending before the 2nd respondent and at this stage, the 2nd respondent is not justified in rejecting the stay application. He further contended that under the guise of the said rejection order, the respondents are demanding the disputed tax and penalty and in these circumstances, if the relief of

stay is not entertained, the very purpose of filing the appeal would be defeated.

In the facts and circumstances of the case and in view of the fact that the appeal is pending before the 2nd respondent, without expressing any opinion on the merits of the case, We feel it a fit case wherein stay can be granted, but subject to certain conditions.

Accordingly, there shall be stay of collection of disputed tax and penalty pending disposal of the appeal before the 2nd respondent subject to the condition of the petitioner depositing 50% of the disputed tax and 25% of the disputed penalty, within a period of six weeks from today. However, it is made clear that the amount paid if any, shall be given credit to the above stipulated sum.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

Justice T. Meena Kumari

Justice G. Rohini

Date: 28th December, 2007

Nn/Gurc.

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(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

28/12/2007